

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Norman Holmes, :
Petitioner(s), :
vs. : Case Number: 1:13cv648
Warden, Chillicothe Correctional Inst., : Chief Judge Susan J. Dlott
Respondent(s). :

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Karen L. Litkovitz. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on August 15, 2014 a Report and Recommendations (Doc. 18). Subsequently, the petitioner filed objections to such Report and Recommendation (Doc. 22) and Respondent filed a reply to the objections (Doc. 23).

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendation should be adopted.

Accordingly, petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Doc 1) is **DISMISSED** with prejudice.

A certificate of appealability will not issue with respect to the claims alleged in the petition, which have been addressed on the merits since petitioner has not stated a “viable claim of the denial of a constitutional right,” nor are the issues presented “adequate to deserve encouragement to proceed further.” *See Slack v. McDaniel*, 529 U.S. 473, 475 (2000) (citing

Barefoot v. Estelle, 463 U.S. 880, 893 & n.4 (1983)). See also 28 U.S.C. § 2253 (c); Fed. R. App. P. 22(b).

With respect to any application by petitioner to proceed on appeal *in forma pauperis*, the Court will certify pursuant to 28 U.S.C. §1915(a)(3) that an appeal of any Order adopting this Report and Recommendation will not be taken in “good faith,” and therefore **DENY** petitioner leave to appeal *in forma pauperis* upon a showing of financial necessity. See Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997).

IT IS SO ORDERED.

s/Susan J. Dlott
Chief Judge Susan J. Dlott
United States District Court